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10/673,157	09/30/2003	Kurt A. Dobbins	026215-00001	9786

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

EXAMINER	
BURGESS, BARBARA N	

ART UNIT	PAPER NUMBER
2157	

NOTIFICATION DATE	DELIVERY MODE
06/16/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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IPMatters@arentfox.com
Patent_Mail@arentfox.com

Office Action Summary	Application No.	Applicant(s)	
	10/673,157	DOBBINS, KURT A.	
	Examiner	Art Unit	
	BARBARA N. BURGESS	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 May 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *5-2-08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to Request for Continuation Examination (RCE) filed May 2, 2008. Claims 1-23 are presented for further examination. Claims 24-25 are presented for initial examination.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 7, 9-17, 19, 21-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Van Der Schaar (hereinafter "Van", US Patent Publication 2003/0135863 A1).

As per claim 1, Van discloses a method of offering preferred transport in a network, the method comprising:

receiving a first part of a content transmission in the network (paragraphs [0025, 0040]);

receiving an indication of transport parameters in the network, the indication being associated with the content of the content transmission (paragraphs [0027, 0032]);

receiving a second part of the content transmission in the network (paragraphs [0040, 0046);

transmitting the second part of the content transmission in the network in accordance with the transport parameters (paragraphs [0068, 0070]).

As per claim 2, Van discloses a transmission device comprising:

a data receiver configured to receive a first part of a content transmission and an indication of transport parameters associated with the content of the content transmission network (paragraphs [0027, 0032]);

a service logic for grouping the first part of the content transmission and subsequent parts of the content transmission as a communications flow (paragraphs [0025, 0040]);

a transmission logic for determining the transmission parameters of the content according to the indication of transport parameters (paragraphs [0068, 0070]);

a switching apparatus for transporting the first part and subsequent parts of the content transmission in the network to a communications port according to the communications flow determined by the service logic (paragraphs [0046, 0070]);

a data transmitter configured to transmit the subsequent parts of the content transmission in the network in conjunction with the communications port in accordance with the transmission parameters determined by the transmission logic (paragraphs [0068, 0070]).

As per claim 3, Van discloses the method according to claim 1, wherein the first part of the content transmission is a command for a particular content transmission (paragraph [0025]).

As per claim 4, Van discloses the method according to claim 3, wherein the command is a request command for a particular content transmission (paragraph [0019]).

As per claim 5, Van discloses the method according to claim 4, wherein the command is an HTTP GET request command (paragraph [0019]).

As per claim 7, Van discloses the method according to claim 5, wherein the command includes information that is utilized in the return path for the content transmission (paragraph [0038]).

As per claim 9, Van discloses the method according to claim 1, further comprising: authenticating the distribution allowed for the content transmission, and authorizing only the allowed distribution of the content transmission (paragraph [0025]).

As per claim 10, Van discloses the method according to claim 1, wherein the transportation parameters include a preferred level of transport (paragraph [0028]).

As per claim 11, Van discloses the method according to claim 10, wherein the transport parameters include at least one selected from a group consisting of a predetermined amount of bandwidth, a predetermined quality of service, a predetermined transmission attribute, a predetermined amount of packet loss, and a predetermined amount of jitter (paragraph [0035]).

As per claim 12, Van discloses the method according to claim 1, further comprising: decrypting the indication of transport parameters (paragraph [0040]).

As per claim 13, Van discloses the method according to claim 1, wherein receiving a first part of the content transmission in the network includes receiving the first part of the content transmission in a node of the network along a transmission path of the content transmission (paragraph [0038]).

As per claim 14, Van discloses the method according to claim 1, wherein the content transmission includes application data (paragraph [0019]).

As per claim 15, Van discloses the transmission device according to claim 2, wherein the first part of the content transmission is a command for a particular content transmission (paragraph [0020]).

As per claim 16, Van discloses the transmission device according to claim 15, wherein the command is a request command for a particular content transmission (paragraph [0019]).

As per claim 17, Van discloses the transmission device according to claim 16, wherein the command is an HTTP GET request command (paragraph [0018]).

As per claim 19, Van discloses the transmission device according to claim 17, wherein the command identifies a return path for the content transmission (paragraph [0060]).

As per claim 19, Van discloses the transmission device according to claim 2, further comprising:

an authentication element configured to authenticate the distribution allowed for the content transmission; and an authorization element configured to authorize only allowed distribution of the content transmission (paragraph [0025]).

As per claim 21, Van discloses the transmission device according to claim 2, wherein the transport parameters include a preferred level of transport (paragraph [0028])

As per claim 22, Van discloses the transmission device according to claim 21, wherein the transport parameters include at least one selected from a group consisting of a predetermined amount of bandwidth, a predetermined quality of service, a predetermined transmission attribute, a predetermined amount of packet loss, and a predetermined amount of jitter (paragraph [0035].

As per claim 23, Van discloses the transmission device according to claim 2, further comprising:

a decryption element configured to decrypt the indication of transport (paragraph [0040]).

As per claim 24, Van discloses the transmission device according to claim 2, further comprising:

an authentication element configured to authenticate the distribution allowed for the content transmission (paragraph [0038]);

an authorization element configured to authorize only allowed distribution of the content transmission (paragraph [0045]).

As per claim 25, Van discloses a method of offering preferred transport in a peer-to-peer network, the method comprising:

receiving a first part of a content file transmission in the peer-to-peer network (paragraph [0038]);

receiving an indication of transport parameters in the peer-to-peer network, the indication being associated with the content of the content file transmission (paragraph [0035]);

receiving a second part of the content file transmission in the peer-to-peer network (paragraph [0040]); and

transmitting the second part of the content file transmission in the peer-to-peer network in accordance with the transport parameters (paragraph [0048]).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 6, 8, 18, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Schaar (hereinafter "Van", US Patent Publication 2003/0135863 A1) in view of Feuerstraeter et al. (hereinafter "Feu", US Patent Publication 2003/0123393 A1).

As per claim 6, Van does not explicitly discloses the method according to claim 5, wherein the command includes the indication of transport parameters, and wherein the indication of transport parameters includes a content tag.

However, in an analogous art, Feu teaches content received from a source at the host is tagged with priority level. The priority level give details of flow of the content (paragraphs [0030-0031, claim 20]).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Feu's content tag in Van's method in order to determine the priority level of the content.

As per claim 8, Van does not explicitly discloses the method according to claim 5, further comprising:

receiving a response to the command, wherein the response includes a content tag.

However, in an analogous art, Feu teaches content received from a source at the host is tagged with priority level. The priority level give details of flow of the content (paragraphs [0030-0031, claim 20]).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Feu's content tag in Van's method in order to determine the priority level of the content.

As per claim 18, Van does not explicitly discloses the transmission device according to claim 17, wherein the command includes the indication of transport parameters, and wherein the indication of transport parameters includes a content tag.

However, in an analogous art, Feu teaches content received from a source at the host is tagged with priority level. The priority level give details of flow of the content (paragraphs [0030-0031, claim 20]).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Feu's content tag in Van's method in order to determine the priority level of the content.

As per claim 20, Van does not explicitly discloses the transmission device according to claim 17, wherein the data receiver is further configured to receive a response to the command, wherein the response includes a content tag.

However, in an analogous art, Feu teaches content received from a source at the host is tagged with priority level. The priority level give details of flow of the content (paragraphs [0030-0031, claim 20]).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Feu's content tag in Van's method in order to determine the priority level of the content.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BARBARA N. BURGESS whose telephone number is (571)272-3996. The examiner can normally be reached on M-F (8:00am-4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Barbara N Burgess/
Examiner, Art Unit 2157

Barbara N Burgess
Examiner
Art Unit 2157

June 8, 2008

/Ario Etienne/
Supervisory Patent Examiner, Art Unit 2157